

REMARKS

Reconsideration is requested.

The applicant requests the Examiner to reconsider the requirement for a certified copy of the PCT application. Certification should not be required in view of the published nature of the PCT application. Furthermore, the PCT application should be available within the USPTO consistent with conventional PCT processing. That this may be a photocopy should be of no consequence even if an interference has been requested. Reconsideration of the Examiner's position is requested.

The claims have been amended to obviate the Examiner's Section 112 rejection and to otherwise improve form. More specifically, claim 17 has been cancelled as unnecessary and claims 26, 31 and 39 have been suitably amended by deleting language objected to by the Examiner.

While the applicant has deleted reference to trade names for the hybrid corn used in the invention, it is noted that such references are accepted in claim language. See, for example, Dekalb's U.S. Patent 5,424,831.

Reference to "agonist" has also been deleted from the applicant's claims although, here again, this term is well recognized. See, for instance, U.S. Patent 5,739,106. However, the use of this designation and trade names has been avoided in amending the claims to simplify the Examiner's consideration. Furthermore, the deleted terminology is not deemed essential for proper definition of the invention.

The changes made in the claims are highlighted in the attached Appendix.

Reconsideration of the Section 112, 2nd ¶ rejection is requested in view of the amendments to claims.

The Examiner is also requested to reconsider the Section 102(b) rejection of claims 14-43 as based upon a public use or sale of the invention. The invention was not in public use or sale more than a year before the applicant's U.S. filing. The Examiner's rejection is erroneously based on the view that the applicant's invention "was sold to Hudson Feed". However, there was no sale of the invention to Hudson. The applicant used Hudson to provide ground corn cob material so that the applicant could experiment with his invention or test it out. Such experimental work is not a bar under Section 102(b) or otherwise. Hudson did not buy anything from the applicant. All that Hudson did was supply material to the applicant, at the applicant's request, for the applicant to test out his invention. Such activities do not in any way raise a Section 102(b) bar. Withdrawal of the Section 102(b) rejection is, therefore, requested.

The Examiner is also requested to reconsider the Section 102(c) rejection of the claims on the grounds that the invention was abandoned. This rejection is based on the Examiner's apparent misunderstanding of the facts. Thus, contrary to the Examiner's assumption, the applicant did not delay patenting until he heard of Chuhran's filing for patent. The applicant filed his U.S. application before he knew anything about Chuhran's filing. The applicant did not become aware of Chuhran's efforts to patent until Chuhran's U.S. patent issued. This was after the applicant's filing. Clearly, the applicant

had no intention to abandon the invention and he was not spurred into filing because of any information regarding a filing by Chuhran.

The Examiner is also requested to reconsider the Section 103(a) rejection of the applicant's claims based on the Chuhran patent (U.S. 6,136,340). The applicant has pointed out that the Chuhran patent is not citable as prior art for reasons noted earlier. See the first full ¶, page 8 of the applicant's response of June 19, 2001. In particular, the Chuhran patent, insofar as it may be considered as overlapping with the present invention, represents the applicant's work, not Chuhran's. The Examiner has not commented on the points made by the applicant in his submission of June 19, 2001 regarding Chuhran's reliance on the applicant's own work. Derivation is a complete response to the Examiner's reliance on the Chuhran patent under Section 103(a). The Examiner is, accordingly, requested to withdraw the Section 103(a) rejection and declare interference with the Chuhran patent wherein derivation by Chuhran would be established.


Finally, for the sake of completeness, the applicant submits that, even if the Chuhran patent was citable as prior art, certain of the applicant's claims, e.g. claims 14-16 and 18-34, which call for the use of cellulosic white core material obtained from the core of hybrid corn cobs, should be patentable. There is nothing in Chuhran suggestive of the use of this material as proposed by the applicant. In fact, Chuhran appears to say nothing about using hybrid corn and he specifically removes the core material from his corn cobs and uses the resulting rings which remain for his purposes. See first full ¶

under "Description of the Preferred Embodiments". Thus, Chuhran is not in any sense suggestive of the applicant's use of the hybrid corn core material. This should certainly warrant allowance of claims such as claims 14-16 and 18-34 notwithstanding the derivation issue with respect to Chuhran and the requested interference relative to other claims herein, e.g. claims 38-43.

Favorable reconsideration of this application is requested.

Respectfully submitted,

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APPENDIX

Version with Markings to Show Changes Made

IN THE CLAIMS

Claim 17 has been canceled without prejudice.

The claims are being amended as follows:

15. (Twice Amended) The rodenticide of claim 14 comprising cellulosic white core rodenticidal material obtained from a cob core of hybrid corn [hybric].

26. (Twice Amended) A rodenticide comprising [material which is an agonist in rodents of] cellulosic white core material obtained from hybrid corn [hybrid DK 446] cobs which is rodenticidal when orally administered in a manner enabling free access to rodents.

30. (Twice Amended) A method of alleviating rodent infestation, the method comprising depositing in a region of infestation a rodenticide comprising cellulosic white core material obtained from hybrid corn cobs.

31. (Twice Amended) The method according to claim 30 wherein said white core cellulosic material [is an agonist in rodents of the cellulosic white core material obtained from the DK 446 corn hybrid] consists essentially of α cellulose.

33. (Twice Amended) A method of making a rodenticide comprising bringing into association (a) a bait attractant and (b) white core cellulosic material, obtained from [the] hybrid corn cobs.

39. (Amended) The method as defined in claim 38 in which the cellulose grain particles are bound together with the attractant [in an extruded form].